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September 13, 2013

To: Supervisor Mark Ridley-Thomas, Chairman
Supervisor Gloria Molina
Supervisor Zev Yaroslavsky
Supervisor Don Knabe
Supervisor Michael D. Antonovich

From: William T Fujioka
Chief Executive Officer 

MOTION TO SUPPORT THE GOVERNOR'S COMPROMISE PLAN TO REDUCE THE STATE PRISON POPULATION TO MEET THE FEDERAL THREE-JUDGE PANEL COURT ORDER (ITEM NO. 4, AGENDA OF SEPTEMBER 17, 2013)

Item No. 4 on the September 17, 2013 Agenda is a motion by Supervisors Ridley-Thomas and Knabe that the Board support the Governor and four Legislative Leaders' compromise plan and that County Counsel file appropriate briefs in Federal court that articulate the County's support of the compromise.

As reported on August 29, 2013, the Governor, along with Assembly Speaker Pérez, and Senate and Assembly Republican Leadership, announced a plan to meet the Federal three-judge panel's prison population reduction order without the early release of any State prison inmates. The proposed plan relied on increased capacity solutions to comply with the court-order and reduce the prison population to 137.5 percent of design capacity or by approximately 9,000 inmates by December 31, 2013.

Senator President Pro Tempore Darrell Steinberg, along with members of the Senate Democratic Caucus, expressed significant concerns with the capacity solutions contained in the Governor's and Assembly plan and unveiled a framework for a counter-proposal to meet the court-ordered population cap.

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On September 9, 2013, Governor Brown, along with Assembly and Senate leadership, announced a compromise plan that would reduce the State prison population to meet the Federal three-judge panel's court order without any early releases and would invest in longer-term solutions by incentivizing counties to reduce future prison admissions with ongoing and stable funding for the Community Corrections Performance Incentive Act (SB 678 of 2009) and other potential funding for recidivism reduction programs.

The final compromise plan is included in **SB 105 (Steinberg and Huff)**, which as amended on September 9, 2013, would:

- Authorize the State to enter into agreements with public and private, State and out-of-State facilities to house State prison inmates;
- Appropriate \$315.0 million in FY 2013-14 to fund the capacity expansion and contracts with those custody facilities;
- Direct the State to work with stakeholders over the next year to seek longer-term solutions to reduce recidivism and the prison population;
- Extend and revise the formula for SB 678 of 2009 to provide stable and ongoing funding to county probation departments who reduce their prison admission rate;
- Create a Recidivism Reduction Fund from which the Legislature can appropriate funding for programs aimed at reducing recidivism; and
- In the event the Federal three-judge panel modifies the court order or grants an extension which results in State savings from avoided contracts, direct the first \$75.0 million be deposited in the Recidivism Reduction Fund.

It is important to note that part of the compromise plan also includes the Administration's commitment to file a petition with the Federal three-judge panel asking for an extension of the population cap deadline beyond December 31, 2013. This element is not included in SB 105.

SB 105 does not detail how any funding in the Recidivism Reduction Fund would be allocated, to what entities or for what programs, but it is anticipated that any allocation from the Fund would likely be informed by the State's development of recommendations on effective recidivism reduction policies and rehabilitative programs.

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SB 105 passed the Assembly and the Senate on September 11, 2013 and was signed by the Governor on September 12, 2013. As an urgency bill, this measure becomes effective immediately.

Conclusion

As the County's State Legislative Agenda does not contain Board-approved policy related to increased capacity solutions or longer-term recidivism reduction solutions to reduce the State prison population, support of SB 105 would have been a matter of Board policy determination; however, with the enactment of SB 105, there is no longer opportunity for legislative advocacy in Sacramento on the compromise proposal.

The second component of the motion to direct County Counsel to file briefs with the Federal court expressing the County's support of the compromise plan is a matter of Board policy determination.

We will continue to keep you advised.

WTF:RA
MR:KA:ma

c: Executive Office, Board of Supervisors
County Counsel